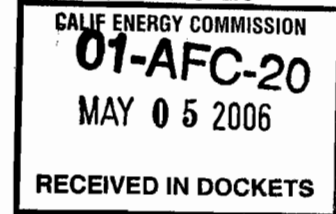


**ENERGY RESOURCES CONSERVATION AND
DEVELOPMENT COMMISSION**

In the Matter of:

Application for Certification
for the AVENAL ENERGY PROJECT

Docket No. 01-AFC-20



**ENERGY COMMISSION STAFF'S OPPOSITION TO REQUEST FOR
EXTENSION OF SUSPENSION AND MOTION TO TERMINATE AVENAL
ENERGY PROJECT PROCEEDING**

On April 24, 2006, Federal Power Avenal, LLC (Applicant) filed a Request for Extension of Existing Suspension to May 1, 2007. The Application for Certification of the Avenal Energy Project was originally filed on October 15, 2001, and deemed complete on December 19, 2001. On October 10, 2002, the Energy Commission approved the first request for suspension of review of the project for six months. The Commission subsequently granted three additional requests for suspension, each for a period of one year. The current request is the fifth one and should be denied. For the reasons discussed below, Staff opposes Applicant's request to extend the suspension and moves for termination of the proceeding under Title 20, California Code of Regulations, section 1720.2.

Section 1720.2 allows the Committee or any party to file a motion to terminate an application proceeding for the applicant's failure to "pursue an application ... with due diligence". (Cal. Code Regs., tit. 20, § 1720.2(a).) There has been no progress on this case for over three and a half years and the data initially provided will be over five years old if this extension is granted. These circumstances are similar to those leading to the Energy Commission's February 17, 2006 Order Denying Continued Suspension and Terminating Proceeding for the Potrero Unit 7 Project (Docket No. 00-AFC-4).

While staff understands that the applicant has made some efforts to market the proposed project, those efforts have failed and the applicant has not provided any assurance that progress will be made in the coming year. Even if such progress occurs, the information on file remains stale and much of it irrelevant due to the Applicant's prior decision to change its point of interconnection. Just as in the Potrero case, extensive supplemental and new analysis of all project aspects would have to occur and that level of supplementation, analysis, and review is akin to preparing and reviewing a completely new AFC.

Pursuant to section 1720.2 of our regulations, staff does not believe the Applicant has pursued the application with due diligence and, thus, moves for denial of the Applicant's request for extension of the suspension and termination of this proceeding. (Cal. Code Regs., tit. 20, §1720.2(a).)

DATED: May 5, 2006

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'L. Decarlo', written over a horizontal line.

LISA M. DECARLO
Senior Staff Counsel